

Introduced by Senator Jackson
(Principal coauthors: Senators Anderson and Hancock)
(Principal coauthor: Assembly Member Lowenthal)

February 20, 2014

An act to add Chapter 6 (commencing with Section 3440) to Title 2 of Part 3 of the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1135, as introduced, Jackson. Inmates: sterilization.

Existing law establishes a state correctional system and provides for the establishment of county jails. Existing law regulates certain aspects of medical care for inmates.

This bill would prohibit sterilization for the purpose of birth control of an individual under the control of the Department of Corrections and Rehabilitation or a county correctional facility, as specified. The bill would also otherwise prohibit any means of sterilization of an inmate, except when required for the immediate preservation of life in an emergency medical situation and when required for the necessary treatment of a physical medical condition if certain requirements are satisfied, including that patient consent is obtained. If a sterilization procedure is performed pursuant to these exceptions, the bill would require psychological consultation and medical followup, as specified. The bill would require the department and all county jails or other institutions of confinement to publish an annual report of sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization, including, but not limited to, hysterectomy and oophorectomy.

By imposing additional duties on local correctional facilities in connection with inmate medical care, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to prevent sterilization abuse of vulnerable populations, to
3 ensure safeguards against sterilization abuse within the coercive
4 environment of prison and jail, and to positively affirm all peoples'
5 right to fully self-determine their reproductive lives free from
6 coercion, violence, or threat of force.

7 SEC. 2. Chapter 6 (commencing with Section 3440) is added
8 to Title 2 of Part 3 of the Penal Code, to read:

9

10 CHAPTER 6. STERILIZATION OF INMATES

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12 3440. (a) Sterilization for the purpose of birth control,
13 including, but not limited to, during labor and delivery, of an
14 individual under the control of the department or a county and
15 imprisoned in a state prison, reentry facility, community
16 correctional facility, county jail, or any other institution in which
17 an individual is involuntarily confined or detained under a civil or
18 criminal statute, is prohibited.

19 (b) Sterilization of an individual under the control of the
20 department or a county and imprisoned in a state prison, reentry
21 facility, community correctional facility, county jail, or any other
22 institution in which an individual is involuntarily confined or
23 detained under a civil or criminal statute, through tubal ligation,
24 hysterectomy, oophorectomy, or any other means rendering an

1 individual permanently incapable of reproducing, is prohibited
2 except in either of the following circumstances:

3 (1) The procedure is required for the immediate preservation
4 of the individual's life in an emergency medical situation.

5 (2) The procedure is required for the necessary treatment of a
6 physical medical condition, excluding birth control, and only if
7 all of the following requirements are satisfied:

8 (A) Less drastic measures to address the medical need are
9 nonexistent, are refused by the individual, or are first attempted
10 and deemed unsuccessful.

11 (B) A second physician independent of, and not employed by,
12 the department or county department overseeing the confinement
13 of the individual is consulted and confirms the need for a medical
14 intervention resulting in sterilization to address the medical need.

15 (C) Patient consent is obtained after the individual is made aware
16 of the full and permanent impact the procedure will have on his
17 or her reproductive capacity, that future medical treatment while
18 under the control of the department or county will not be withheld
19 should the individual refuse consent to the procedure, and the side
20 effects of the procedure.

21 (c) If a sterilization procedure is performed pursuant to
22 paragraph (1) or (2) of subdivision (b), presterilization and
23 poststerilization psychological consultation and medical followup,
24 including providing relevant hormone therapy to address surgical
25 menopause, shall be made available to the individual sterilized
26 while under the control of the department or the county.

27 (d) The department and all county jails or other institutions of
28 confinement shall publish an annual report of sterilizations
29 performed, disaggregated by race, age, medical justification, and
30 method of sterilization, including, but not limited to, hysterectomy
31 and oophorectomy.

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

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